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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,353	11/24/2003	Brian D. Smith	2003-0604.02	4714

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LEXMARK INTERNATIONAL, INC.  
INTELLECTUAL PROPERTY LAW DEPARTMENT  
740 WEST NEW CIRCLE ROAD  
BLDG. 082-1  
LEXINGTON, KY 40550-0999

EXAMINER

GARCIA JR, RENE

ART UNIT

PAPER NUMBER

2853

DATE MAILED: 11/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/720,353

Applicant(s)

SMITH ET AL.

Examiner

Rene Garcia, Jr.

Art Unit

2853

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 September 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,4-11,26 and 27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-11,26 and 27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some    \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 18 September 2006 has been entered.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 4, 5, 6, 7, 8, 26 & 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Watanabe (US 6,247,804).

#### **Watanabe discloses the following claimed limitations:**

\*regarding claim 1, 4, 5 & 7, inkjet printhead/recording head, 3A/ comprising:

\*plurality of air diffusion vents/communication holes, 9, 9A/ (fig. 2 & 3; col. 3, lines 8-10)

\*label/sealing member, 22/ (fig. 2 & 3; col. 4, lines 2-4) positioned over an entirety of at least one of said air diffusion vents/9/ during printing, said label/22/ not positioned over an entirety of another of said air diffusion vents/9A/ during printing (col. 3, lines 26-37)

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\*regarding claim 2, plurality of air diffusion vents/**9, 9A/** reside in a top surface of an inkjet printhead lid/**8/** (fig. 2 & 3; col. 3, lines 8-10)

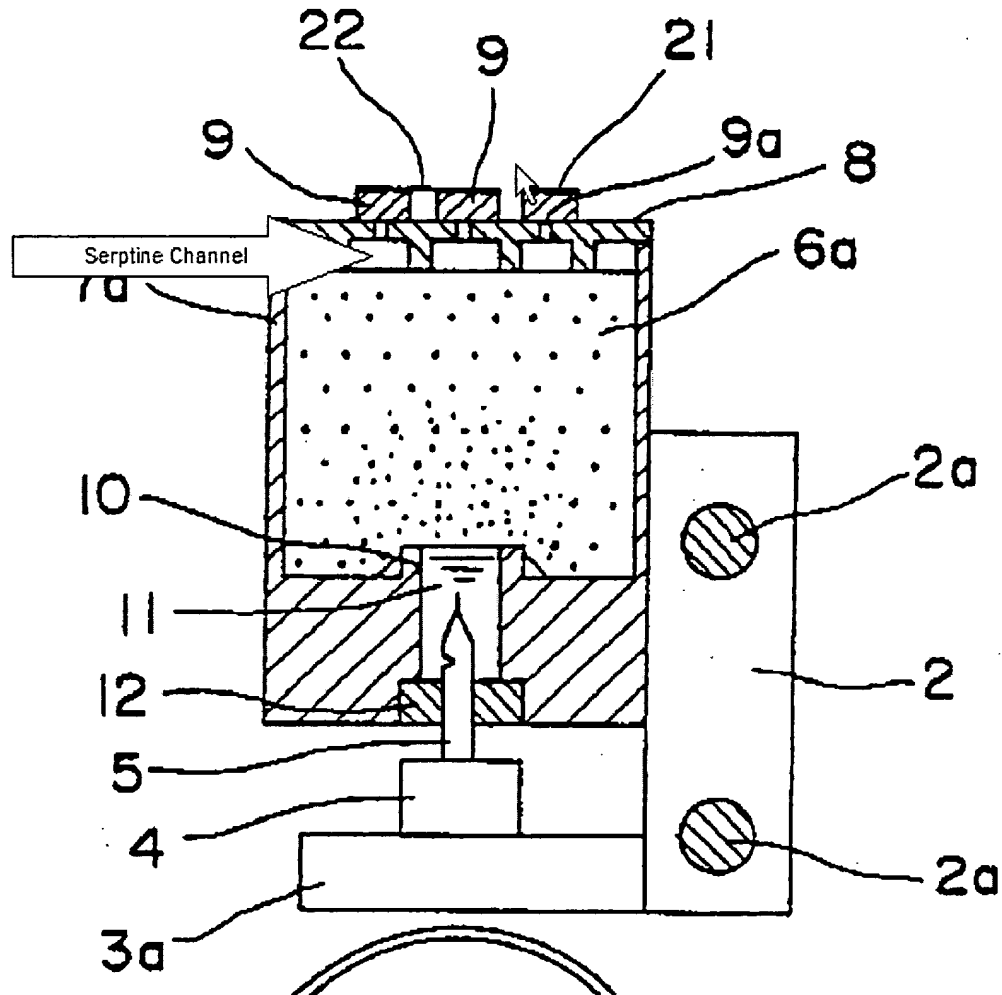
\*further regarding claim 4, interior/**solution reservoir, 6/** (fig. 3; col. 3, lines 5-6)

\*at least two air diffusion vents/**9,9A/** in fluid communication with said interior/**6/** (fig. 2)

\*further regarding claims 5, 6 & 7, surface/lid, **8/** having at least two predetermined label placement positions (fig. 2 & 3; position for sealing members 21 & 22; claim limitations do not specify label positions with regards to a single label just that at least two positions are available)

\***label/sealing member, 22/** on said surface/**8/** positioned in one of said at least two predetermined label placement positions wherein less than all of said plurality of air diffusion vents/**9/** are in fluid communication with atmosphere during printing (fig. 3; col. 4, lines 2-4; col. 3, lines 26-37; label/**22/** covers communication hole/**9/** leaving communication hole/**9A/** exposed)

\*regarding claim 8, each air diffusion vent/**communication hole, 9,9A/** has a serpentine channel terminating in a hole extending through a thickness of said lid/**8/** from said top surface to said bottom surface (fig. 2; as defined by Merriam Webster's Collegiate Dictionary 10<sup>th</sup> Edition Copyright 1997 Page 1070 – "*of or resembling a serpent (as in form or movement)*" serpentine resembles a serpent, however claim limitations do not express this form to be of a curve/winding form and therefore allow the linear form of a serpent – communication hole/**9,9A/** has a channel [shown in picture below of illustrated fig. 2] with a hole on the underside of lid/**8/**)



\*regarding claims 26 & 27, inkjet printhead/recording head, 3A/ comprising:

\*plurality of ink fill holes (ink fill holes are defined by serpentine channel [shown in above diagram])

\*plurality of air diffusion vents/communication holes, 9 & 9A/, each fluidly connected to one of said ink fill holes (fig. 2)

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\***label/sealing member, 22/** positioned over an entirety of at least one of said air diffusion vents/**9/** and one of said ink fill holes during printing (fig. 2; col. 3, lines 26-37; sealing member/**22/** covers communication hole/**9/** which is connected with ink fill hole associated with it, therefore sealing member is positioned over both)

\*further regarding claim 27, surface/**lid, 8/** having at least two predetermined label/**sealing members 21 & 22/** placement positions (fig. 2 & 3; position for sealing members 21 & 22; claim limitations do not specify label positions with regards to a single label just that at least two positions are available)

\***label/22/** on said surface/**top of lid, 8/** positioned in one of said at least two predetermined label placement positions (position related to sealing member,**22/** wherein less than all of said plurality of air diffusion vents/**9/** and less than all of the ink fill holes/**ink fill hole associated with communication vent,9/** are in fluid communication with atmosphere during printing (fig. 3; col. 4, lines 2-4; col. 3, lines 26-37; label/**22/** covers communication hole/**9/** leaving communication hole/**9A/** exposed)

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 9 is rejected under 103(a) as being unpatentable over Watanabe (US 6,247,804).

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**Watanabe discloses all the claimed limitations except for the following:**

\*regarding claim 9, length of said serpentine channel divided by a width multiplied a depth of a terminal end of said serpentine channel is numerically about 210

It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize a serpentine channel divided by a width multiplied a depth of a terminal end of said serpentine channel that is numerically about 210, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. For the purpose providing an air channel in fluid communication with interior and atmosphere.

*In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980)*

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to utilize serpentine channel divided by a width multiplied a depth of a terminal end of said serpentine channel that is numerically about 210 for the purpose of providing fluid communication of interior with the atmosphere.

6. Claims 10 and 11 are rejected under 103(a) as being unpatentable over Watanabe (US 6,247,804) in view of Ujita et al. (US 2002/0158949).

**Watanabe discloses all the claimed limitations except for the following:**

\*regarding claim 10, label is a two layer laminate

\*regarding claim 11, label is a layer of polyester over a layer of polypropylene

**Ujita et al. disclose the following:**

\*regarding claim 10, label is a two layer laminate (paragraphs 0261-0264) for the purpose of obtaining a good contact at the fused point between the seal tape and ink cartridge

\*regarding claim 11, label is a layer of polyester over a layer of polypropylene (paragraphs 0261-0264) for the purpose of obtaining a good contact at the fused point between the seal tape and ink cartridge

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to utilize a label is a two layer laminate; and label is a layer of polyester over a layer of polypropylene as taught by Ujita et al. into Watanabe for the purpose of obtaining a good contact at the fused point between the seal tape and ink cartridge.

### ***Response to Arguments***

7. Applicant's arguments with respect to claims 1, 4, 5 & 7 have been considered but are moot in view of the new ground(s) of rejection. Watanabe (US 6,247,804) teaches the amended claim limitations of a label positioned such that at least one air diffusion vent is in communication during printing operation, and that a plurality of label placement positions are available. Watanabe teaches the claim limitations provided in new claims 26 & 27 regarding a diffusion vent and ink fill holes.

8. In response to applicant's argument that label placement is utilized such that label does not cover an air diffusion vent *during printing*, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. Watanabe teaches claim limitations of label being in such a position during use.





***Communication with the USPTO***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rene Garcia, Jr. whose telephone number is (571) 272-5980. The examiner can normally be reached on M-F 8:00AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen D. Meier can be reached on (571) 272-2149. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Rene Garcia Jr  
11/06

  
**STEPHEN MEIER**  
**SUPERVISORY PATENT EXAMINER**